

**Notice of Allowability**

Application No.

10/776,584

Examiner

Kamal A. Saeed

Applicant(s)

FYFE ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed on 02/08/2007.
2. ☒ The allowed claim(s) is/are 39-42, 44--51, 53, 56, 57 and 59 now 1-16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 6/28/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### ***DETAILED ACTION***

Claims 1-38, 43, 52, 54, 55 and 58 have been canceled. Therefore, claims 39-42, 44-51, 53, 56, 57 and 59 are pending in this application.

#### **Priority**

This application claims the benefit to U.S. Provisional Application Nos. 60/446,683, filed 11 February 2003; 60/494,434 filed on 11 August 2003; and 60/512,800, filed 20 October 2003.

#### **Information Disclosure Statement**

The Information Disclosure Statement filed on 28 June 2004 is in compliance with 37 C.F.R. 1.97, and was considered by the examiner. Please refer to Applicant's copy of the 1449 submitted herewith.

#### **Response to Restriction**

Applicants' election, with traverse, of Group I, (currently amended drawn to compounds of Formula I, depicted in claim 59 and Formula VIII, depicted in claim 56, | 08 February 2007 is acknowledged.

Since the product claims were found allowable, in accordance with M.P.E.P. 821.04 and In re Ochiai, 71 F.3d 1565, 37 USPQ 1127 (Fed. Cir. 1995), the product claims, process of making thereof, and method of use claims have been rejoined. Therefore, the previous restriction requirement is hereby withdrawn.

#### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

Art Unit: 1626

Authorization for this examiner's amendment was given in a telephone interview with James B Myers on 02/21/2007.

The application has been amended as follows:

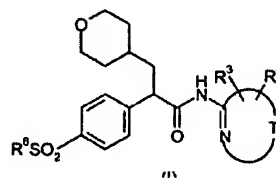
In claim 48, line 1, delete "of prophylactic" and insert ---preventing---.

In claim 48, line 2, delete "a condition where activation of GK is desirable" and insert ---hyperglycemia----

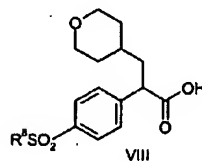
In claim 49, line 1, delete "prophylactic or"

In claim 49, line 2, delete "hyperglycemia or"

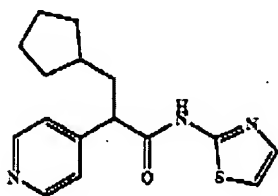
### Reasons for Allowance



The present invention is directed to compounds of Formula III, wherein T together with the  $-N=C$ , to which it is attached forms a 2-pyrazinyl or 2-thiazolyl ring.



The claims are also directed to compounds of Formula VIII. The closest prior art is U.S. Patent No. 6,911,545 B2 to Corbett et al. The prior art teaches compounds of Formula



. None of the published compounds anticipated, or rendered obvious, the compounds claimed in this application. Therefore, claims 39-42, 44-47 and 49-51, 53, 56, 57 and 59 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement for Reasons for Allowance."

### *Telephone Inquiry*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal A Saeed whose telephone number is (571) 272-0705. The examiner can normally be reached on M-T 7:00 AM- 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Art Unit: 1626

may be obtained from either Private PAIR or public PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



KAMALA A. SAEED, PH.D.  
PRIMARY EXAMINER